

HONORABLE DAVID W. CRISTEL  
HONORABLE BEJNAMIN SETTLE

UNITED STATE DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

REBECCA J. LEEPER an individual,

Plaintiff,

v.

CITY OF TACOMA, a Municipal  
corporation; TEL C. THOMPSON, and  
JOHN DOES 1-5 in their individual  
capacities.

Defendants.

NO. 3:20-cv-05467

DEFENDANT TEL C.  
THOMPSON'S ANSWER AND  
AFFIRMATIVE DEFENSES

COMES NOW Defendant Tel C. Thompson, by and through his attorney of record,  
Shannon L. Trivett of Lasher Holzapfel Sperry & Ebberson, PLLC, hereby asserts that it has  
a true just and complete defense to the claims asserted by the plaintiff. Insofar as it is necessary  
to set the same forth in an answer, defendant Thompson answers as follows:

**I. PARTIES**

1.1 Denied. Upon reasonable investigation, defendant Thompson is unable to admit or  
deny the allegations contained in paragraph 1.1 of plaintiff's complaint and hereby denies the

DEFENDANT TEL C. THOMPSON'S ANSWER AND  
AFFIRMATIVE DEFENSES - 1

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HOLZAPFEL  
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1 same.

2 1.2 Admitted in part; denied in part. Defendant Thompson admits that City of Tacoma  
3 is a Washington municipal entity. The remaining allegations are conclusions of law to which no  
4 response is required.  
5

6 1.3 Admit.

7 1.4 Denied. Upon reasonable investigation, defendant Thompson is unable to admit or  
8 deny the allegations contained in paragraph 1.4 of plaintiff's complaint and hereby denies the  
9 same.  
10

## 11 II. JURISDICTION AND VENUE

12 2.1 Denied. The allegations contained in paragraph 2.1 to plaintiff's complaint are  
13 conclusions of law to which no response is required.  
14

15 2.2 Denied. Upon reasonable investigation, defendant Thompson is unable to admit or  
16 deny whether or when a claim for damages form was presented to the City of Tacoma and hereby  
17 denies the same. The remaining allegations contained in paragraph 2.2 of plaintiff's complaint are  
18 conclusions of law to which no response is required.  
19

## 20 III. JURY DEMAND

21 3.1 The allegation contained in paragraph 3.1 of plaintiff's complaint is a demand to  
22 which no response is required.  
23

## 24 IV. STATEMENT OF FACTS

25 4.1 Admit.  
26

1           4.2     Admitted in part; denied in part. Admit that defendant Thompson worked off-duty  
2 providing increased security at Fred Meyer locations in the City of Tacoma. Admit that  
3 defendant Thompson wore his police officer uniform and represented himself as a Tacoma  
4 Police Department officer while in this role. Any and all remaining allegations contained in  
5 paragraph 4.2 of plaintiff's complaint are specifically denied.  
6

7           4.3     Admitted in part; denied in part. Admit that defendant Thompson worked off-duty  
8 to provide increased security at the 4505 South 19<sup>th</sup> Street Fred Meyer location in 2017. Admit  
9 that plaintiff worked as a Loss Prevention Manager for Fred Meyer at the same location. Any  
10 and all remaining allegations contained in paragraph 4.3 of plaintiff's complaint are  
11 specifically denied.  
12

13           4.4     Denied.  
14

15           4.5     Denied. Upon reasonable investigation, defendant Thompson is unable to admit or  
16 deny the allegations contained in paragraph 4.5 of plaintiff's complaint and hereby denies the  
17 same.  
18

19           4.6     Denied. Defendant Thompson denies "a history of being overly confrontational  
20 and exhibiting inappropriate sexualized conduct." Upon reasonable investigation, defendant  
21 Thompson is unable to admit or deny what was reported to TPD, or what, if anything, TPD had  
22 notice of, and defendant Thompson denies the same.  
23

24           4.7     Denied.  
25

26           4.8     Denied.

1           4.9     Admitted in part; denied in part. Admit that defendant Thompson was providing  
2 security for the Fred Meyer store on South 19<sup>th</sup> Street on or around July 17, 2018. Admit that  
3 defendant Thompson was wearing his policy uniform and was in possession of his badge,  
4 handcuffs, flashlight, and firearm. Admit that as plaintiff entered the Loss Prevention office,  
5 defendant Thompson appeared from behind a door to surprise plaintiff has a joke. Deny that  
6 defendant Thompson's intent was to frighten or embarrass the plaintiff. All other allegations  
7 contained in paragraph 4.9 of plaintiff's complaint are denied.  
8  
9

10           4.10    Admitted in part; denied in part. Admit that plaintiff and defendant Thompson  
11 hugged and both stated how they missed the other. Admit that defendant Thompson poked the  
12 side of plaintiff's breast (outside of her shirt) in a quick jab-like motion as a joke. Plaintiff and  
13 defendant Thompson laughed about the interaction and continued work. Any and all remaining  
14 allegations contained in paragraph 4.10 of plaintiff's complaint are specifically denied.  
15  
16

17           4.11    Denied.

18           4.12    Denied.

19           4.13    Admitted in part; denied in part. Admit that defendant Thompson was terminated  
20 from the Tacoma Police Department.  
21

22           4.14    Denied. Upon reasonable investigation, defendant Thompson is unable to admit or  
23 deny the allegations contained in paragraph 4.14 of plaintiff's complaint and hereby denies the  
24 same.  
25  
26

**V. CAUSES OF ACTION**

**A. FIRST CLAIM FOR RELIEF - 42 U.S.C. §1983**

5.1 Defendant Thompson herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.2 Denied. The allegations contained in paragraph 5.2 to plaintiff's complaint are conclusions of law to which no response is required.

5.3 Denied. The allegations contained in paragraph 5.3 to plaintiff's complaint are conclusions of law to which no response is required.

5.4 Denied. The allegations contained in paragraph 5.4 to plaintiff's complaint are conclusions of law to which no response is required.

5.5 Denied. The allegations contained in paragraph 5.5 to plaintiff's complaint are conclusions of law to which no response is required.

**B. SECOND CLAIM FOR RELIEF - 42 U.S.C. §1983**

5.6 Defendant herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.7 Denied. The allegations contained in paragraph 5.7 to plaintiff's complaint are conclusions of law to which no response is required.

5.8 Denied. The allegations contained in paragraph 5.8 to plaintiff's complaint are conclusions of law to which no response is required.

5.9 Denied. The allegations contained in paragraph 5.9 to plaintiff's complaint are conclusions of law to which no response is required.

5.10 Denied. The allegations contained in paragraph 5.10 to plaintiff's complaint are conclusions of law to which no response is required.

**C. THIRD CLAIM FOR RELIEF - NEGLIGENT AND GROSSLY NEGLIGENT  
HIRING, TRAINING, AND SUPERVISION OF EMPLOYEES AND AGENTS**

5.11 Defendant herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.12 Denied. The allegations contained in paragraph 5.12 to plaintiff's complaint are conclusions of law to which no response is required.

5.13 Denied. The allegations contained in paragraph 5.13 to plaintiff's complaint are conclusions of law to which no response is required.

5.14 Denied. The allegations contained in paragraph 5.14 to plaintiff's complaint are conclusions of law to which no response is required.

**D. FOURTH CLAIM FOR RELIEF - ASSAULT AND BATTERY**

5.15 Defendant herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.16 Denied. The allegations contained in paragraph 5.16 to plaintiff's complaint are conclusions of law to which no response is required.

5.17 Denied. The allegations contained in paragraph 5.17 to plaintiff's complaint are conclusions of law to which no response is required.

5.18 Denied. The allegations contained in paragraph 5.18 to plaintiff's complaint are conclusions of law to which no response is required.

5.19 Denied. The allegations contained in paragraph 5.19 to plaintiff's complaint are conclusions of law to which no response is required.

**E. FIFTH CLAIM FOR RELIEF - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

5.20 Defendant herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.21 Denied. The allegations contained in paragraph 5.21 to plaintiff's complaint are conclusions of law to which no response is required.

5.22 Denied. The allegations contained in paragraph 5.22 to plaintiff's complaint are conclusions of law to which no response is required.

5.23 Denied. The allegations contained in paragraph 5.23 to plaintiff's complaint are conclusions of law to which no response is required.

**F. SIXTH CLAIM FOR RELIEF - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

5.24 Defendant herein incorporates by reference the foregoing answer to plaintiff's complaint as if fully set forth herein at length.

5.25 Denied. The allegations contained in paragraph 5.25 to plaintiff's complaint are conclusions of law to which no response is required.

5.26 Denied. The allegations contained in paragraph 5.26 to plaintiff's complaint are conclusions of law to which no response is required.

**G. SEVENTH CLAIM FOR RELIEF- RESPONDEAT SUPERIOR**

5.27 Denied. The allegations contained in paragraph 5.27 to plaintiff's complaint are conclusions of law to which no response is required.

**AFFIRMATIVE DEFENSES**

BY WAY OF FURTHER ANSWER AND DEFENSE, and in an abundance of caution,

1 Defendant Thompson asserts the following defenses and affirmative defenses, some or all of which  
 2 may ultimately be supported by the facts to be revealed in the investigation of this case: **Upon**  
 3 **request and after further investigation, if appropriate, defendant Thompson will withdraw**  
 4 **those defenses that are unsupported by the facts revealed through further investigation,**  
 5 **should there be any.**

7 1. Plaintiff fails to state a claim upon which relief can be granted.

8 2. Some or all of plaintiff's claims against defendant Thompson are barred because  
 9 the plaintiff knowingly submitted to some or all of the conduct that the plaintiff alleges in her  
 10 complaint.  
 11

12 3. Plaintiff has failed to mitigate her damages, if any.  
 13

14 Defendant Thompson herein reserves the right to assert any supplemental pleading, any  
 15 additional affirmative defenses, counterclaims or cross-claims which mature or are required  
 16 subsequent to this answer.  
 17

### 18 ANSWER TO PRAYER FOR RELIEF

19 THEREFORE, having fully answered plaintiff's complaint and asserted affirmative  
 20 defenses, defendant Thompson prays for judgment against the plaintiff as follows:  
 21

22 A. That plaintiff's claims be dismissed with prejudice;

23 B. That defendant Thompson be awarded its reasonable costs and disbursements  
 24 therein, including his attorney's fees and costs pursuant to RCW chapter 4.84, CR 11 or otherwise  
 25 allowed by law;

26 C. That the Court grant other such and further relief as the court deems necessary.



1 Dated this 26th day of May, 2020.

2  
3 LASHER HOLZAPFEL  
4 SPERRY & EBBERSON, P.L.L.C.

5  
6 s/ Shannon L. Trivett

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13 *Attorneys for Defendant Tel C. Thompson*  
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**DECLARATION OF SERVICE**

I declare under penalty of perjury of the laws of the State of Washington that on the date signed below, I caused to be served a copy of the document to which this Declaration is affixed upon the following:

***Attorneys for Plaintiff:***

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DATED this 26<sup>th</sup> day of May, 2020.

s/ Leslie B. Foltz  
Leslie B. Foltz